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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केंद्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications Issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 10 दिसम्बर, 1987

आ.अ. 14.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसूच में, निर्वाचन आयोग 1983 की निर्वाचन अर्जी संख्या 65 में उच्च न्यायालय जम्मू व कश्मीर, श्रीनगर के तारीख 10 अप्रैल, 1987 का निर्णय उस में संदर्भित उसके तारीख 16 मई, 1984 के आदेश सहित एतद्द्वारा प्रकाशित करता है।

[संख्या: 82/जे.के.नो.स./65/83]

ELECTION COMMISSION OF INDIA

New Delhi, the 14th December, 1987

O.N. 14.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 10th April, 1987 of the High Court of Jammu and Kashmir at Srinagar in Election Petition No. 65 of 1983, along with its Order dated the 16th May, 1984.

[No. 82/J&K-HP/65/83]

SR. NO. 1(R)

HIGH COURT OF JAMMU AND KASHMIR AT
SRINAGAR

196 GI/88—1

PRESENT :

Hon'ble Mr. Justice G. A. Kuchhai,

Election petition No : 65/83

Mohd. Muzaffar v/s. Saif-ud-Din Soz

Mr. B. A. Khan

Mr. S. Hall.

The petitioner, a voter, nominee of Indian National Congress-I, in 1-Baramulla Parliamentary Constituency, challenges the election of the respondent returned candidate, nominee of National Conference from 1-Baramulla Parliamentary Constituency, polling of which took place on 5-6-83 on the basis of corrupt practices on the following grounds;

That the election of the respondent has been manipulated by corrupt practices with the consent and connivance of the respondent by his supporters, agents, campaign, including Dr. Farooq Abdullah. That the election of the respondent from the said Constituency to Parliament was communalised as appeals were made to the voters based on religion, caste and region and by creating hatred between different classes of citizens having exercised undue influence on the voters by loosing a reign of terror, intimidation and victimisation of the voters; booth capturing and rigging was resorted in voting by the respondent and his agents. Dr. Farooq Abdullah who

(41)

was President of National Conference also with the consent of respdt. spoke at Hazaratbai Shrine and accused Indian National Congress-I, in power at the Centre, being responsible for the theft of holy relic from the shrine in 1963-64 in order to create communal feelings against the Congress-I of which the petitioner was a nominee in the election. Even Dr. Farooq Abdullah raised an issue of confirmation of Chief Justice of J & K in the electioneering and accused the Centre Govt. adopting a communal policy regarding the confirmation of the Chief Justice then. Dr. Farooq Abdullah with the connivance of respondent accused Congress-I Govt. at the Centre attempting to reduce muslim majority into minority. Dr. Farooq Abdullah President of National Conference joined hands with one Moulvi Mohd. Farooq, leader of Awami Action Committee, a pro-Pakistan party, and jointly used religious symbols for brightening the election of the respondent and accused Congress-I responsible for mass killing of muslims in Assam Muradaba, Aligarh etc. in the country and it was also propagated that the election is, in fact, war between Kufar and X Islam. The Congress-I candidates were branded as enemies of Islam and in different segments of this Parliamentary Constituency the leaders of National Conference with consent of the respondent spread communal hatred in order to brighten the election prospects of the respondent, even raised the issue of Article 370 of the Constitution of India, propagating that Congress-I if voted they will reduce the muslim majority into minority in the State of J & K by importing hindus from outside. The respondents' party which was in power in Jammu and Kashmir State, Dr. Farooq Abdullah, being Chief Minister, misused official position by using the official machinery for electioneering of the respondent. As a result of all this the election of the respondent was manipulated on the basis of corrupt practices and the election prospects of the petitioner due to creation of communal feelings and misuse of official machinery darkened the election prospects of the petitioner and the respondent was elected from 1-Baramulla Parliamentary Constituency to Parliament, due to corrupt practices, therefore, his election be set aside and respondent be further disqualified from contesting the election as he was also holding the office of profit at the time of his election.

The respondent appeared and filed his written statement denying the allegations made in the petition as baseless.

Certain preliminary issues were framed vide this court order dated 16-5-84. The respondent was given opportunity to lead evidence under the same order but consequently vide order dated 19-7-84 the evidence of the respondent on the preliminary issue was closed and respondent was ordered to be examined alone. The statement of the petitioner has not been even recorded till date and vide order dated 17-12-86 opportunity was given to Mr Mir for seeking fresh instructions.

On 27-3-87, Mr Khan gave a statement that the petitioner does not want to press this petition nor wants to produce any evidence in support of the petition.

Mr. S. Hali, appearing for the respondent gave a similar statement that the respondent does not want to produce any evidence. The case of the parties was closed and the learned counsel for both the parties were heard.

At this stage no final issue has been framed for adjudication in the case. Preliminary issues framed have not been proved in terms of the order. There is no iota of evidence to refer to the allegations made in the petition by the petitioner. All the material before the court is the petition and the written statement filed by the respondent. The petitioner himself through his counsel has abandoned the proceedings as per depositions of the Advocate as the petitioner does not press this petition nor put forth any proof in support of the petitioner with the result the petition has remained unproved and the petitioner, as such, cannot be given relief as prayed for by him in the petition which deserves to be dismissed at this stage for want of proof.

Keeping in view the observations made above, the election petition is dismissed with costs assessed at Rs. 700 to be paid by the petitioner to the respondent. The security amount shall be refunded to the petitioner after payment of the costs awarded to the respondent.

File be consigned to records.

Srinagar,

10-4-87.

Sd/-

KUCHHAI J. Dy. Registrar
High Court of Jammu & Kashmir
Srinagar.

Copy of interim order dated 16-5-1984.

HIGH COURT OF JAMMU AND KASHMIR AT
SRINAGAR.

PRESENT :

The Hon'ble Dr. A. S. Anand, Acting Chief Justice.

Election Pet. No. 65 of 1983

Mohd, Muzaffar

Versus

Saif-ud-Din Soze

Mr. B. A. Khan

M/s. K. N. Raina and Mufti Mehraj-ud-Din.

In the written statement filed, certain objections in the nature of preliminary objections have been raised by way of additional pleas, I therefore deem it proper to frame the following preliminary issues:—

- (1) Is the copy of the affidavit appended to the petition furnished to the respondent not a true copy of the original affidavit, and, if so, is the petition liable to be dismissed on that score? O.P.R.
- (2) Is the affidavit appended to the petition not sworn or executed in accordance with the provisions of the Representation of People Act of 1951, and, if so, what is its effect? O.P.R.
- (3) Is copy of annexure A1 appended to the copy of the petition furnished to the respondent not verified in accordance with law and, if so, what is its effect? O.P.R.
- (4) Do the allegations of corrupt practices levelled in the petition lack in material facts if so, how and what is its effect? O.P.R.
- (5) Do the allegations of corrupt practices levelled in the petition not contain full particulars, and, if so, what is its effect? O.P.R.

Learned counsel for the respondent submit that since onus of all these issues is on the respondent, the respondent may be granted an opportunity to lead evidence. The respondent shall file list of witnesses together with process fee and diet money within one week. The petition shall come up for scrutiny and further orders on 31st of May, 1984.

Srinagar,

16-5-1984.

Sd/-

Hon'ble ACJ'

नई दिल्ली, 7 जनवरी, 1988

आदेश

आ. प्र. 15:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट जम्मू-कश्मीर विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र में हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी जम्मू-कश्मीर लोक प्रतिनिधित्व अधिनियम, 1957 तथा तद्वीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपदर्शित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहा है,

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्योयोचित्य नहीं है,

अतः अद्य, निर्वाचन आयोग उक्त अधिनियम की धारा 24-इ के अनुसरण में नीचे की सारणी के स्तम्भ 4 में विनिर्दिष्ट व्यक्तियों को जम्मू-कश्मीर राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निर्वाह धोषित करता है :

सारणी

क्रम सं.	निर्वाचन का विवरण	विधान सभा निर्वाचन क्षेत्र की क्रम संख्या और नाम	निर्वाचना लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	जम्मू-कश्मीर विधान सभा के लिए साधारण निर्वाचन, 1987	1—करताह	श्री मोहम्मद यूसुफ निवासी खोवरपुडा, डाकघर तंगदार, जिला कुपवाडा (जम्मू-कश्मीर)	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
2.	—वही—	2—हंडवाडा	श्री गुलाम मुहम्मद धर डाकघर हंडवाडा, जिला कुपवाडा (जम्मू-कश्मीर)	—वही—
3.	—वही—	6—सोनावारी	श्री गुलाम मुहिमु दीन वागे निवासी सदीनरा, सोनावारी, जिला बारामुला	—वही—
4.	—वही—	7—पत्तन	श्री गुलाम मुहम्मद यानु 89 गोसबाग, पत्तन, जिला बारामुला (जम्मू-कश्मीर)	—वही—
5.	—वही—	—वही—	श्री अब्दुल हमीद बाहनी 89 गोसबाग, पत्तन, जिला बारामुला (जम्मू-कश्मीर)	—वही—
6.	—वही—	12—बारामुला	श्री मनजीत सिंह मिगपुरा, बारामुला (जम्मू-कश्मीर)	—वही—

1	2	3	4	5
7.	जम्मू-कश्मीर विधान सभा के लिए साधारण निर्वाचन, 1987	14—कंगन	श्री गुलाम रसूल निवासी लार, जिला श्रीनगर (जम्मू-कश्मीर)	निर्वाचना व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
8.	—वही—	16—हजरतबल	श्री मोफी गुलाम अहमद मोना मस्जिद, श्रीनगर (जम्मू-कश्मीर)	—वही—
9.	—वही—	19—जैनाकादल	श्री सिराजुद्दीन शाह, 8—न्यू हॉर्जिसिंग कालोनी, बावेदम, श्रीनगर (जम्मू-कश्मीर)	—वही—
10.	—वही—	—वही—	श्री गुलाम नबी नक्ष बोहारिकादल, आजार मस्जिद, श्रीनगर (जम्मू-कश्मीर)	—वही—
11.	—वही—	—वही—	श्री मुहम्मद अशरफ खान गाम मोहल्ला, जामा मस्जिद, श्रीनगर (जम्मू-कश्मीर)	—वही—
12.	—वही—	—वही—	श्री नजीर अहमद मीर वांडुबाग, खामीआर, श्रीनगर (जम्मू-कश्मीर)	—वही—
13.	—वही—	20—ईदगाह	श्री वशीर अहमद आरामपुरा, तवाकादल, श्रीनगर (जम्मू-कश्मीर)	—वही—
14.	—वही—	—वही—	श्री मुहम्मद सादिक राठेर सक्कादामर, सफाकादल, श्रीनगर (जम्मू-कश्मीर)	—वही—
15.	—वही—	29—पमपोरे	श्री मोहम्मद अकबर लोने पुत्र श्री मोहम्मद मनवर लोने निवासी लाडू, तह. पम्पोरे, जिला पुलवामा (जम्मू-कश्मीर)	निर्वाचना व्ययों का लेखा समय अनुसार व विधि अनुसार भेजने में असमर्थ रहे।
16.	—वही—	46—उन्दरवाल	श्री हमीदउल्ला मगथला ठकराये, तह. किस्तवाडा जिला डोडा (जम्मू-कश्मीर)	निर्वाचना व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।

1	2	3	4	5
17.	जम्मू-कश्मीर विधान सभा के लिए साधारण निर्वाचन, 1987	47—बादरवा (अ. जा.)	श्री ओम प्रकाश गांव नागर, तह. बादरवा, जिला डोडा, (जम्मू कश्मीर)	निर्वाचित व्यक्तियों का लेखा समया- न्सार व विधि अनुसार भेजने में असफल रहे।
18.	—वही—	48—डोडा	श्री शेर सिंह, थालोडा थाथरी, जिला डोडा (जम्मू कश्मीर)	निर्वाचित व्यक्तियों का कोई भी लेखा दाखिल करने में असफल रहे
19.	—वही—	49—रामबन	श्री विशन दाम, ग्रामा व पो. बागर, जिला डोडा (जम्मू कश्मीर)	—वही—
20.	—वही—	—वही—	श्री देवराज धार धनदरथ, जिला डोडा (जम्मू कश्मीर)	निर्वाचित व्यक्तियों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
21.	—वही—	—वही—	श्री रविन्दर सिंह कोतवाल गांव व डाकघर रामबन, जिला डोडा (जम्मू कश्मीर)	—वही—
22.	—वही—	50—बनीहाल	श्री खादम हुसैन, निवासी जामलबास, तह. बनीहाल, जिला डोडा (जम्मू-कश्मीर)	—वही—

[सं. 76/जम्मू कश्मीर वि. म. /87 (3)]

मूरज प्रकाश, अवर सचिव

New Delhi, the 7th January, 1988

ORDER

O.N. 15.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the Jammu and Kashmir Legislative Assembly as specified in column (2) and held from the constituency correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown as in column (5) of the said Table, as required by the Jammu and Kashmir Representation of the People Act, 1957 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 24-D of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of the Legislative Assembly or Legislative Council of the State of Jammu and Kashmir for a period of three years from the date of this order.

TABLE

S. No.	Particulars of election	S.No. and name of assembly constituency	Name and address of the candidates	Reason for disqualification
1.	2.	3.	4.	5.
1.	General Election to Jammu and Kashmir Legislative Assembly, 1987.	1—Karnah	Shri Mohd Yousif, R/o Khowerpora, P.O. Tanghdar, Distt. Kupwara, Jammu and Kashmir.	Failed to lodge any account of election expenses.

1	2	3	4	5
2.	General Election to Jammu and Kashmir Legislative Assembly, 1987.	2--Handwara	Shri Gh. Mohd. Dar, R/o & P.O. Handwara, Distt. Kupwara (J&K).	Failed to lodge any account of election expenses.
3.	-do-	6--Sonawari	Shri Gh. Mohi-ud-din Wagay, Sadhonra, Sonawari, Distt. Baramulla (J&K).	-do-
4.	-do-	7--Pattan	Shri Gh. Mohd. Yattoo, R/o Goshbagh, Pattan, Distt. Baramulla (J & K).	-do-
5.	-do-	-do-	Shri Abdul Hamid Wani, Goshbagh, Pattan, Distt. Baramulla (J&K).	-do-
6.	-do-	12--Baramulla	Shri Manjeet Singh, Singhpora, Baramulla, (J&K).	-do-
7.	-do-	14--Kangan	Shri Ghulam Rasool, R/o Lar, Distt. srinoger (J&K).	-do-
8.	-do-	16--Hazratabal	Shri Soji Ghulam Ahmad, Sona Masjid, Srinagar, (J&K).	-do-
9.	-do-	19--Zainakadal	Shri Siraj-ud-Din Shah, 8, New Housing Colony, Babedemb, Srinagar (J & K).	-do-
10.	-do-	-do-	Shri Ghulam Nabi Naqash, Bohari Kadal, Bazar masjid, Srinagar.	-do-
11.	-do-	-do-	Shri Mohd Ashraf Khan, Ghaus Mohalla, Jama Masjid, Srinagar.	-do-
12.	-do-	-do-	Shri Nazir Ahmad Mri, Badu Bagh, Khamyar, Srinagar, (J&K).	-do-
13.	-do-	20--Idgah	Shri Bashir Ahmad, Arampera, Nawakadal, Srinagar (J&K)	-do-
14.	-do-	-do-	Shri Mohd Sadiq Rather, Sakka Damar, Safakadal, Srinagar (J&K).	-do-

1	2	3	4	5
15.	General Election to Jammu and Kashmir Assembly, 1987.	29—Pampore	Shri Mohd. Akbar Lone, S/o Shri Mohd Munawar Lone, R/o Ladhoo, Teh. Pampore, Distt. Pulwama (J&K)	Failed to lodge the account within time and in the manner required.
16.	-do-	46—Inderwal	Shri Hamidullah, Mangthala Thakrai Tehsil Kishtwar, Distt. Doda, (J&K).	Failed to lodge any account of election expenses.
17.	-do-	47—Bhaderwah (SC)	Shri Om Parkash, Village Naggar, Tehsil Bhaderwah, Distt. Doda (J&K)	Failed to lodge the account within time and in the manner required.
18.	-do-	48 - Doda	Shri Sher Singh, Thaloda-Thathri, Distt. Doda (J&K).	Failed to lodge any account of election expenses.
19.	-do-	49 - Ramban	Shri Bisha Dass, R/o Vill. & P.O. Baggar, Distt. Doda (J&K).	-do-
20.	-do-	-do-	Shri Dev Raj, R/o Dhar Dhandrath, Distt. Doda (J & K).	-do-
21.	-do-	-do-	Shri Ravinder Singh Kotwal, Vill. & P.O. Ramban, Distt. Doda (J&K).	-do-
22.	-do-	50—Banihal	Shri Khadam Hussain R/o Chamalwas, Tehsil Banihal, Distt Doda (J&K).	-do-

[No. 76/J & K-LA/87 (3)]
SURAJ PARKASH, Under Secy.

